

gressional redistricting, it was thought that we should attempt within the limits possible to set up some standards and procedure.

At the outset, I should say that we recognize that Congress has the right at any time to pass laws pertaining to the same areas which the proposal you have before you refers to, which, in effect, would preempt Maryland on any constitutional or statutory provisions. Therefore, we do, in suggesting to you the fact that there be congressional districting constitutional law in Maryland run the risk of having the area preempted. However, that risk does not seem too great on the basis of what has occurred in recent times.

The federal Congress, since 1929, has really not had any standards of any genuine application with respect to congressional districts. Prior to that time, there were standards. A congressional district had to be compact and contiguous. Thereafter, as the Supreme Court cases evolved, they had to be substantially equal in population.

The Supreme Court of the United States is still grappling with what constitutes equal population for congressional districts. It seems fair to say that it requires a greater standard of equality, if I can use that term, for the Congress and congressional districts than it requires for state districts.

The most recent case was decided several weeks ago and involved Ohio, where the districts varied a total of thirty-one percent. This was held to be unconstitutional by the majority of the Supreme Court without an opinion. There was a two-man dissent which attempted to evaluate the reasons for the ruling of the six judges in the majority.

Now, what we have proposed to do with 3.03(b) is, of course, first of all to eliminate single member districts. That is the only area in which Congress has legislated thus far. On November 30 of this year, it amended a special bill, a private bill, to provide that there shall be no at-large elections except in those states which have elected all their congressmen at-large prior thereto.

Now, of course, when we require in the proposed language of 3.03(b) that the State be divided into congressional districts, we are consistent with what the Congress has agreed to thus far.

I think the question of "compact and contiguous" is one of historical significance more than any other thing. We know what

something is when it is contiguous. I am not sure that anyone knows how one can effectively apply the requirement of compactness.

The thing that I think would interest the Committee of the Whole is the second sentence of 3.03(b), "The difference between the populations of the largest and smallest congressional districts in the State shall not exceed ten percent of the mean population of all congressional districts."

That means that once the number of congressmen has been determined for the State, that that number is divided into the number of people in the State where you get the mean population of an exact congressional district which would be exactly equal.

Applying the standard of ten percent, it means that you may have a total of ten percent between the high and the low. It would be five percent high, five percent low, or seven and three, or six and four.

Now, this may not seem like a large number, this ten percent allowable deviation, but when you consider that in 1960 the mean population of a congressional district was 388,000, this means, applying the ten percent figure that you could have under the proposed constitutional requirement here, a variation of almost 39,000 persons for each congressional district. This would be the area of flexibility, so to speak.

Taking the CONGRESSIONAL QUARTERLY standards for 1970, which does not approximate as great a population for Maryland as some of our other sources, using even their figures, each congressional district on an exact mathematical basis would have roughly 480,000 people. Applying the ten percent allowable deviation you would have, therefore, a difference of 48,000 between the high and the low congressional district.

Quite naturally, an inquiry will be made as to why the Committee decided upon ten percent, why it decided upon a percentage at all, when in the legislative session and the session having to do with the districts for the purposes of the General Assembly we did not use a percentage, although we indicated we felt that fifteen percent would be the maximum acceptable in isolated cases. I think the reason is because of the much larger size of a congressional district, the fact that a larger percentage really allows you a greater number of people for flexibility purposes.